

JUDGE RAMOS

16 CV 6127

United States District Court

Southern District of New York

Plaintiff: Weican Meng, pro se

Complaint

45 N Station Plaza, Suite 214, Great Neck, NY 11021

Tel: 919 308 9826

Watsonmeng@gmail.com

Defendant: Xinhuanet Co., Ltd

No. 129 West Xuanwumen Street, 8th Floor, Jinyu Plaza, Xicheng District, Beijing, China

Reason to file the complaint:


The Plaintiff (Weican Meng) registered domain name: Xinhua.news on July 12 2015. The registrar is Name.com, Inc.

On May 5, 2016, Xinhuanet Co., Ltd submitted a Complaint to Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office).

On July 21st, 2016, the ADNDRC Beijing Office made an decision: domain name "Xinhua.news" be transferred to the Xinhuanet Co., Ltd.

Weican Meng does not agree with this decision.

Date: New York NY
Aug. 2, 2016
Petitioner: Weican Meng


Weican Meng

FILED
U.S. DISTRICT COURT
2016 AUG -2 PM 4:30
S.D. OF N.Y.

Memo

Plaintiff:

Weican Meng

45 N Station Plaza, Suite 214, Great Neck, NY 11021

Defendant:

Xinhuanet Co., Ltd

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Why Filing in New York?

1. The plaintiff (Weican Meng) is a citizen of USA, office is in Great Neck, NY. The plaintiff cannot get Visa to PRC because of his work in news reporting and promoting free speech in China.
2. Xinhua.news will be hosted and used in USA
3. The registrar of disputed domain Xinhua.news is based in USA.

Details:

As the owner of Xinhua.news, the complaint (Weican Meng) parked this domain to URL boxun.com, a news service website owned by Weican Meng. Thus Xinhuanet Co. Ltd complained that Boxun.com damaged its name as Boxun published contents "negative on China".

The Defendant (Xinhuanet Co. Ltd) Complaint i) *The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.*

Response: the complaint (Xinhuanet Co., Ltd) listed trademarks as images. XinHua is not a trademark. It does use domain names such as "xinhuanet.com", "xinhuanet.com.cn", "xinhua.org", "xinhua.cn", "news.cn", "news.中国. But this does not mean that the complaint owns all domains contain the letters "Xinhua". "XinHua is a very popular name used by many companies and as street name. Its common meaning is "New China". For

example, Xinhua Bookstore, Xinhua Daily (a newspaper and news website in south China), Xinhua Insurance., Xinhua Finance.

The complaint says: "The identification part "xinhua" of the Respondent is nearly the same or totally the same with the trademark of the Complainant, thus easily leading to the confuse on among the consumers. Besides, the headlines and content shown on the webpage of the Respondent are of a news and information nature, and are often exaggerated and falsified. The Respondent runs the website overseas, specifically focusing on and sensationalizing the negative news from China. In all, the domain names and webpage content of the Respondent, confusingly similar to those of the Complainant, have cast great negative effect on the reputation of the Chinese government and the Complainant."

As mentioned above, the complaint does not own trademark of "Xinhua". It only registered trademarks of images listed. These images are NOT registered as trademarks in USA or other countries. The complaint falsely use trademark law in its statement.

I own many domain names, Xinhua.news was pointed to boxun.com as a parking page. The complaint saying Boxun.com "are often exaggerated and falsified. The Respondent runs the website overseas, specifically focusing on and sensationalizing the negative news from China" At the same time, the complaint says "In all, the domain names and webpage content of the Respondent, confusingly similar to those of the Complainant". Boxun.com does not use any logos of Xinhuanet, nor the webpage has any similarities. The contents are totally different as the complaint described above. Boxun News is well known in overseas and China. No readers will mistaken Xinhua.news as Xinhuanet, thus the statement "confusingly similar to those of the Complainant" is NOT true.

Xinhuanet Co., Ltd's Complaint ii) *The Respondent has no rights or legitimate interests in respect of the domain name(s):*

The Chinese name of the Respondent is "Boxun.com", which has no relevance to "xinhua", the main part of the disputed domain name. The Respondent has no legal rights or legitimate interests whatsoever in respect of "xinhua" as the Complainant has never given any authorization to the Respondent over the name.

Response: I do own many domain names. Different domains have different purpose of use. Xinhua.news was pointed to Boxun.com as a URL parking. The final usage will be alive when new website launched. The Complaint does not have right to limit me to register only domains that has relevance to Boxun.

Xinhuanet Co., Ltd's Complaint iii) *The disputed domain name(s) has/have been registered and is/are being used in bad faith*

Xinhuanet Co., Ltd's says "1. *The website of the Complainant is one of the most influential Chinese language websites in the world and enjoys exceedingly high recognition and reputation internationally. The Respondent is supposed to know the trademark and domain name "xinhuanet" and "news" belonging to the Complainant.*"

Response: Xinhuanet is influential, but it is also famous as the Party's mouthpiece. It publishes more false and misleading information than Boxun.com and many other international news organizations. Xinhuanet does not own trademark "Xinhua". Xinhuanet Co., Ltd's does not own the right to restrict others to register domains contain "Xinhua" as "Xinhua" is a very common word in Chinese.

Xinhuanet Co., Ltd's says "2. *The website of the Complainant is a Chinese language website of world influence, very sturdily recognized by foreign media organizations and netizens. The domain name "xinhuanet.com" was launched in 1997 by the Complainant and has been in its use ever since. The netizens number of the Complainant is 130 million, while the domain name of the Respondent was registered on July 12, 2015. Given the "xinhua.news" of the Respondent is almost totally the same with the trademark "xinhuanet" of the Complainant, the fact evidently constitutes a malicious copy and imitation on the part of the Respondent.*"

Response: Boxun.com is not a COPY of Xinhuanet, Boxun.com has not imitated design or contents of Xinhuanet. This has been made clear by its own statement above. We believe that Boxun.com will own more readers than Xinhuanet if China removes its firewall that blocks Boxun.com in China.

Xinhuanet Co., Ltd's says: "3. *Notwithstanding the news content transmitted by the Respondent was blocked by the related departments of the Chinese government, the Respondent continues to use the domain name "xinhua.news" in transmitting news on the current issues involving China. The domain name and content of the Respondent have clearly caused reasonable misunderstandings and confusions to the third party internationally, and have harmed the authority and reputation of the Complainant, obstructed its daily business operation and severely misled the public.*"

Response: Yes. It is true that Boxun.com is blocked by Chinese government, so are BBC, CNN, New York Times. This can be evidence that Boxun.com will NOT cause "reasonable misunderstandings and confusions". Thus will not "obstructed its daily business operation and severely misled the public". Boxun.com tries its best to publish truth, while Xinhuanet's main purpose is to serve the Party. After all, Xinhua.news has changed its URL to a page that stated as: "Under Construction. This domain does not have any relationship with Xinhuanet Co., Ltd. It is owned by Boxun.com".

Requests:

Reverse ADNDRC(Beijing)'s decision (Case#:CN-1600976), stop transferring the domain Xinhua.news to Xinhuanet Co., Ltd.

Xinhuanet Co., Ltd pays the cost of this legal case.

Petitioner = Weican Meng
L37

